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9

10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON
12

13 ROBERT B. LUTZ, MD, MPH, a
14 married man,

Case No. 2:22-CV-0028-MKD

15 Plaintiff,

DEFENDANTS' ANSWER TO
16 vs.
17 FIRST AMENDED COMPLAINT

SPOKANE REGIONAL HEALTH
18 DISTRICT,

19 Defendants.
20

COME NOW defendants, by and through the undersigned counsel of the
21 law firm of Evans, Craven & Lackie, P.S. and for Answer to the Plaintiff's
22 Complaint, admits, denies and alleges as follows:
23

24 I. INTRODUCTION
25

26 For answer to paragraph 1 of Plaintiff's Complaint, to the extent this
27 paragraph sets forth any factual allegations, Defendants deny.
28
29

30 DEFENDANTS' ANSWER TO FIRST AMENDED COMPLAINT -
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& LACKIE, P.S.

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II. PARTIES

1. For answer to paragraph 1 of Plaintiff's Complaint, Defendants admit the same.
2. For answer to paragraph 2 of Plaintiff's Complaint, Defendants admit the same.
3. For answer to paragraph 3 of Plaintiff's Complaint, Defendants admit the same.

III. JURISDICTION AND VENUE

4. For answer to paragraph 4 of Plaintiff's Complaint, Defendants admit the same.

IV. STATUTORY PRE-REQUISITES

5. For answer to paragraph 5 of Plaintiff's Complaint, Defendants admit the same.
6. For answer to paragraph 6 of Plaintiff's Complaint, Defendants admit the same.

V. FACTS

7. For answer to paragraph 7 of Plaintiff's Complaint, Defendants are without sufficient information to admit or deny and therefore deny the same.

Spokane Regional Health District

8. For answer to paragraph 7 of Plaintiff's Complaint, Defendants are without sufficient information to admit or deny and therefore deny the same.

1 9. Defendants are without sufficient information to admit or deny and
2 therefore deny the same.
3
4 10. No answer is required, the duties are set forth in RCW 70.05.060 and
5 70.46.060.
6
7 11. No answer is required, the duties are set forth in RCW 70.05.060 and
8 70.46.060 except as to sovereign tribal nations and Indian Health programs
9 to which there is insufficient information to admit or deny and therefore
10 deny.
11
12 12. No answer is required, the duties are set forth in RCW 70.05.060 and
13 70.46.060, to the extent those duties enumerated do not “require
14 collaboration,” Defendant denies the same.
15
16 13. Defendants are without sufficient information to admit or deny and
17 therefore deny the same, to the extent that SRHD has responsibilities they
18 are set forth in RCW 70.05.060 and RCW 70.46.060.
19
20 14. Deny to the extent that this paragraph alleges that SRHD is a state
21 function. The duties are set forth in RCW 70.05.060 and 70.46.060.
22
23 15. Deny. The duties are set forth by Washington Statute.
24
25 16. Deny. SRHD is a local health district formed under RCW 70.46. et seq.
26
27 17. Defendants are without sufficient information to admit or deny and
28 therefore deny.
29
30 18. Admit that there are local public health departments and local health
districts in Washington State. Defendants are without sufficient



1 information to admit or deny as to the characterization of “decentralized
2 governmental public health” and therefore denies the same.
3

4 19. Deny.

5 20. Defendants are without sufficient information to admit or deny and
6 therefore deny the same.
7

8 21. This paragraph calls for a legal conclusion and therefore no answer is
9 required.
10

11 22. This paragraph calls for a legal conclusion and therefore no answer is
12 required.
13

14 23. This paragraph calls for a legal conclusion and therefore no answer is
15 required.
16

17 24. Deny.
18

19 25. Deny, the District is a municipal corporation.
20

21 26. Without sufficient information to admit or deny and therefore deny the
22 same, it is unclear if this allegation refers to pass through dollars.
23

24 27. Without sufficient information to admit or deny and therefore deny the
25 same, it is unclear if this allegation refers to pass through dollars.
26

27 28. Without sufficient information to admit or deny and therefore deny the
28 same, it is unclear if this allegation refers to pass through dollars.
29

30 29. Without sufficient information to admit or deny and therefore deny the
31 same.
32



1 30. Without sufficient information to admit or deny and therefore deny the
2 same, it is unclear if this allegation refers to pass through dollars.
3
4 31. Admit the Board is a governing body, however deny the remainder of the
5 paragraph as the Board does set public health policy for Spokane County.
6
7 32. Calls for a legal conclusion and no answer is required.
8
9 33. Admit. .
10
11 34. Defendants admit to the extent that the testimony if accurately quoted
12 speaks for itself and no answer is required.
13
14 35. Defendants admit to the extent that the testimony if accurately quoted
15 speaks for itself and no answer is required.
16
17 36. Defendants admit to the extent that the testimony if accurately quoted
18 speaks for itself and no answer is required.
19
20 37. This paragraph is vague and unclear. To that extent defendants are without
21 sufficient information to admit or deny and therefore deny the same.
22
23 38. Deny.
24
25 39. Without sufficient information to admit or deny and therefore deny the
26 same.
27
28 40. This paragraph calls for a legal conclusion and therefore no answer is
29 required.
30
31 41. Admit to the extent that SRHD provides reports to State Board of Health.
32 Deny the remainder of the paragraph and affirmatively assert that SRHD's
33 jurisdiction is Spokane County.

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42. Admit.

43. Admit to the extent that there was no State requirement for a medical provider to be on any local Health Board until 2021 per House Bill 1152.

44. Deny to the extent that this paragraph seems to allude to a requirement.

There is no State Requirement that a Local Health Officer (“LHO”) is required to be “trained and experienced in public Health.”

45. Admit to the extent that the position is required by State Statute.

46. Admit to the extent that the position is required by State Statute.

47. Admit that the qualifications are set forth by Washington Statute.

48. Calls for a legal conclusion, and no answers are required. RCW 70.05.053

sets forth the rules for provision health officers.

49. This paragraph calls for a legal conclusion and therefore no answer is required.

50. Without sufficient information to admit or deny and therefore denies the same.

51. Admit

52. Deny to the extent that this paragraph calls for an improper legal conclusion. However, Defendants affirmatively assert, Plaintiff failed to “be responsible to the Administrator for his/her official actions.”

53. Admit.

54. Deny to the extent that this paragraph calls for an improper legal conclusion.

Dr. Lutz's Role

DEFENDANTS' ANSWER TO FIRST AMENDED COMPLAINT -
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1 55. Admit.

2 56. Admit to the extent that the statutes speak for themselves. However,
3 Defendants affirmatively assert that local health boards can also set job
4 duties and requirements and the LHO is also required to be responsible to
5 the Administrative Officer.

6 57. Admit to the extent that the statutes speak for themselves and that the LHO
7 must follow statutory requirements. However, deny to the extent that there
8 are other duties and responsibilities that Plaintiff was required to follow and
9 failed to do so.

10 **Dr. Lutz's Job Performance from May 2017 – September 16, 2019**

11 58. Admit to the extent that the document speaks for itself.

12 59. Admit to the extent that the document speaks for itself.

13 **Amelia Clark Hired as Administrative Officer**

14 60. Admit to the extent that a search process began. Deny to the extent that
15 Plaintiff chose not to participate in the process.

16 61. Admit.

17 62. Admit. Defendants affirmatively assert this was not the forum that
18 performance issues or concerns would be raised.

19 **Gun Violence, Public Health, and Free Speech**

20 63. Without sufficient information to admit or deny and therefore deny the
21 same.



1 64. Without sufficient information to admit or deny and therefore deny the
2 mental state of board members. Defendants affirmatively assert that the
3 District and the LHO are not permitted to lobby or advocate for a position.
4 Op-Ed pieces are not proper actions in an official capacity. Admit to the
5 extent that Bob Lutz has a right to submit an opinion letter in his personal
6 capacity, not as the LHO for Spokane Regional Health District. Deny that
7 any such obligation exists. Defendants further affirmatively assert that the
8 Board spoke with Plaintiff about offering opinions on behalf of the District
9 without its approval.

10 65. Without sufficient information to admit or deny, therefore deny the same.

11 66. Admit to the extent that the interim AO discussed Plaintiff's expression of
12 his views but deny to the extent that Plaintiff used language designed to
13 solicit an opinion at a staff meeting. Defendants affirmatively assert that
14 the intent of the Health District is to build bridges to better the community
15 and by offering a divisive statement Plaintiff went directly against the
16 District's intent and purpose of bridging gaps on public health issues which
17 generally, without more, are already divisive.

18 67. Without sufficient information to admit or deny and therefore deny the
19 same

20 **George Floyd, Racism, Public Health and Free Speech**

21 68. Admit.

22 69. Deny.



1 70. Without sufficient information to admit or deny and therefore deny the
2 same.

3 71. Admit to the extent that Washington had a “shelter in place,” Order in place
4 at that time. As the LHO, Plaintiff chose to ignore the Governor’s Order.

5 72. Deny.

6 73. Plaintiff fails to identify any “certain” Board members, so without
7 sufficient information to admit or deny and therefore denies the same.

8 74. Admit to the extent that a meeting occurred and that he was told to separate
9 his personal views from actions that could be connected to SRHD. Deny to
10 the extent that the issue was that he violated a State Order as the LHO. The
11 issue was not that he attended a “peaceful race protest.”

12 75. Admit that a resolution was passed. Admit that Amelia Clark approved an
13 op-ed. Deny the remainder the paragraph.

14 76. Admit. The pressing health issue as of May, 2020 was COVID-19 and the
15 Department of Health had recommended that Districts address COVID-19
16 and schools. Plaintiff was asked to focus on the schools and he refused to
17 do so.

18 77. Deny.

19 78. Deny.

20 79. Deny to the extent that any disclaimer was required.

21 **Dr. Lutz’s Response to COVID-19**

22 80. Admit.



1 81. Admit.

2 82. Admit. Defendants affirmatively assert that LHOs generally were
3 criticized during COVID because of the differing opinions on COVID in
4 general.

5 83. Admit to the extent that even at the beginning of the COVID-19 protocols,
6 the public had very divisive opinions on the response to COVID-19.

7 84. Admit that it was canceled, deny as to the characterization of “forced.”
8 Plaintiff was complying with Governor Inslee’s Orders which the District is
9 tasked with following.

10 85. Without sufficient information to admit or deny; admit to the extent that
11 may people would have had negative opinions about the event being
12 canceled.

13 86. Without sufficient information to admit or deny conversations with Kate
14 Hudson or Mayor Nadine Woodward. Deny to the extent that this was not
15 Plaintiff’s Order it was a State Mandate which was divisive.

16 87. Without sufficient information to admit or deny and therefore deny the
17 same.

18 88. Admit.

19 89. Admit.

20 90. Deny to the extent that Defendants do not agree with the characterization
21 as “push-back.”

22 91. Deny



1 **Political Pressure to Reopen the Economy Despite Public Health**
2 **Concerns; and Pressure to Fire Dr. Lutz**

3 92. Deny to the extent that Defendants do not agree with the characterization
4 as “pressure.”

5 93. Deny. Defendants further affirmatively assert that Plaintiff was walking
6 out of meetings and was not an active participant in conversations
7 surrounding the tough issues raised by COVID-19.

8 94. Without sufficient information to admit or deny therefore deny the same.

9 95. Admit.

10 96. Admit to the extent that the letter was printed in the Spokesman review and
11 speaks for itself. Deny to the extent that the letter as printed shows that
12 Plaintiff was in agreement with the request.

13 97. Without sufficient information to admit or deny and therefore deny the
14 same.

15 98. Admit to the May, 2020 date which was in line with the State Mandate.
16 Without sufficient information to admit or deny the remainder of the
17 paragraph and therefore deny the same. Defendants affirmatively assert that
18 there have always been conflicting opinions on COVID-19 precautions,
19 questions about process and requirements are not a lack of support per se.

20 99. Admit to the date of the variance. Without sufficient information to admit
21 or deny the remainder and therefore deny the same.

1 100. Admit to the extent that the SRHD received complaints continually
2 about COVID-19 in particular. Without review of the specific emails
3 without sufficient information to admit or deny and therefore deny the same.
4

5 101. Deny.

6 102. Admit to the extent that there was significant pressure generally to
7 move to Phase 3. Without sufficient information to admit or deny
8 specifically pressure “on Plaintiff,” therefore deny the remainder of the
9 paragraph.

10 103. Admit that a meeting occurred on June 15, 2020 to discuss issues.
11
12 Deny the remainder of the paragraph.

13 104. Admit that there were no formal personnel complaints made, there
14 were complaints made by citizens. Admit that there was no performance
15 evaluation completed.

16 105. Deny.

17 106. Admit that a letter was sent from the County Commissioners to
18 Plaintiff regarding Phase 3 on June 17. Deny the remainder of the paragraph.

19 107. Deny.

20 108. Without sufficient information to admit or deny the reasons behind
21 Plaintiff denial and therefore deny the same. Admit the remainder of the
22 paragraph. However, deny to the extent that the PIP is tied in any way to
23 Plaintiff decision not to move to Phase 3.



1 109. Admit that there was no formal performance plan issued to Plaintiff.
2 Deny to the extent that concerns related to his performance were not
3 discussed with Plaintiff on or about June 24, 2020, including that Plaintiff
4 was required to attend the regularly scheduled meetings with Ms. Clark.
5 Without sufficient information to admit or deny characterization of Ms.
6 Kuney's statement and therefore denies the same.
7
8

9 110. Admit that a performance improvement plan was drafted. Defendants
10 affirmatively assert that draft personnel documents are not maintained in
11 personnel files nor given to employees unless formally issued.
12

13 **Pressure on Dr. Lutz Regarding Reopening Schools**

14 111. Admit.

15 112. Deny.

16 113. Admit to the extent that Plaintiff would not communicate directly
17 with various district opening members and they reached out to Ms. Clark
18 for assistance.
19
20

21 **Dr. Lutz States Current Data May Require a Return to Phase 2**

22 114. Without sufficient information to admit or deny to the extent that no
23 articles have been provided. Admit to the extent that the articles would
24 speak for themselves.
25

26 115. Admit to the extent that the SRHD received complaints continually
27 about COVID-19 in particular. Without review of the specific emails
28 without sufficient information to admit or deny and therefore deny the same.
29
30



1 **October 29, 2020 -- SRHD Board Executive Session**

2 116. Admit to the fact that the SRHD board met on October 29. 2020.

3 Deny to the extent that any connection between Phase 2 and Plaintiff' job
4 performance is intimated.

5 117. Admit.

6 118. Admit to the extent that there is nothing in Plaintiff' personnel files
7 regarding then current performance issues. Deny the remainder of the
8 paragraph.

9 119. Admit.

10 120. Deny to the extent that the PIP already existed. Admit that there was
11 a draft Separation Agreement prepared. Deny the remainder of the
12 paragraph.

13 121. Deny to the extent that "authorization" was never raised by Plaintiff.

14 122. It is unknown what version of the bylaws this allegation refers to so
15 therefore without sufficient information to admit or deny and therefore deny
16 the same.

17 123. It is unknown what version of the bylaws this allegation refers to so
18 therefore without sufficient information to admit or deny and therefore deny
19 the same.

20 124. Deny to the extent that Dr. Lutz' termination is set forth by Statute
21 which does not provide for just cause.



October 29, 2020, SRHD Fires Dr. Lutz

125. Admit.

126. Deny.

127. Deny.

128. Deny.

129. Admit to the extent that Ms. Clark contacted Sam Artzis and asked him to act as an interim health officer. Deny the remainder of the paragraph.

130. Defendant is without sufficient information to admit or deny and therefore deny the same.

131. Deny. Defendant's affirmatively assert that Plaintiff was on
administrative leave.

132. Deny

133. If accurately quoted, Defendants admit that the document speaks for itself and no answer is required. Defendants deny to the extent that testimony is not recalled the same by all parties.

134. Deny.

135. Defendants are without sufficient information to admit or deny based
on characterization of “action.”

136. Defendants admit that there was an investigation into Dr. Lutz' termination but deny that there was a preliminary "finding" by the State Board of Health.

1 137. Admit that there was a hearing set and to be heard by an
2 Administrative Law Judge. Deny to the extent that it was dismissed because
3 the “SRHD’s Administrative Officer Agreed to cease being the
4 Administrative officer” Defendants affirmatively assert that the AO,
5 Ms. Clark accepted a position in Indiana to escape the persecution by Dr.
6 Lutz.

7
8
9 138. This paragraph calls for a legal conclusion and no answer is required.

10 139. Deny.

11 **SRHD Tries to Revise and Recharacterize Termination**

12 140. Deny to the extent that this calls for a legal conclusion and no answer
13 is required.

14 141. Calls for a legal conclusion and no answer is required.

15 142. This paragraph calls for a legal conclusion and no answer is
16 required. Not notwithstanding, Defendants deny the same.

17 143. This paragraph calls for a legal conclusion and no answer is
18 required. Not notwithstanding, Defendants deny the same.

19 144. Admit to the extent that Plaintiff was provided a hearing on
20 November 5, 2020. Deny the remainder of the paragraph.

21 145. Calls for a legal conclusion and no answer is required.

22 146. Deny.

23 147. Deny.

24 148. Deny to the extent that this allegation mischaracterizes testimony.

1 149. Without sufficient information to admit or deny and therefore deny
2 the same.
3

4 150. Without sufficient information to admit or deny and therefore deny
5 the same.
6

7 151. Deny to the extent that witness statements were provided by Plaintiff.
8

9 152. Admit the meeting was adjourned to an executive session.
10

11 153. Deny to the extent that if this is alleged to be quoted testimony it is
12 misquoted. Further, deny to the extent that it mischaracterizes testimony.
13

14 154. Deny. Defendants affirmatively assert that there is no requirement,
15 legal or otherwise, that provides for any particular “notice and opportunity
16 to respond.”
17

18 155. If answered, this allegation violates privilege and therefore no answer
19 is required. Defendants admit there was an executive session and further
20 admit that Dr. Lutz was not in attendance.
21

22 156. Deny.
23

24 157. Without sufficient information to admit or deny and therefore denies
25 the same to the extent that this paragraph is an assumption and not based on
26 fact.
27

28 158. Deny.
29

30 159. Deny as to RCW 70.05.050. Defendants deny as to WAPA and
DEFENDANTS' ANSWER TO FIRST AMENDED COMPLAINT - further affirmatively assert that there is no requirement, legal or otherwise,
page 17 that provides for any particular “notice and opportunity to respond.”
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1 160. Deny.

2 161. Deny.

3 162. Deny.

4 163. Deny to the falsity of any statement. Without sufficient information
5 to admit or deny the remainder of the paragraph and therefore denies the
6 same.

7 164. Deny.

8 165. Admit Dr. Lutz told the AO and Board on November 5, 2020 that he
9 didn't intend on signing the letter. Deny the remainder of the paragraph.

10 166. Deny.

11 167. Deny.

12 168. Admit Dr. Lutz wrote a written response to the allegations at the
13 November 5, 2020 meeting.

14 169. Deny.

15 170. Deny.

16 171. Admit Dr. Lutz wrote a written response to the November 5, 2020
17 meeting and denied allegations set forth therein.

18 172. Deny.

19 173. Deny.

20 174. Admit Dr. Lutz wrote a written response to the allegations addressed
21 at the November 5, 2020

22 175. Deny.

1 176. Deny.

2 177. Admit Dr. Lutz wrote a written response to the allegations addressed
3 at the November 5, 2020

4 178. Deny.

5 179. Deny.

6 180. Admit Dr. Lutz wrote a written response to the November 5, 2020
7 meeting and denied allegations set forth therein.

8 181. Deny.

9 182. Deny.

10 183. Admit Dr. Lutz wrote a written response to the allegations addressed
11 at the November 5, 2020.

12 184. Deny.

13 185. Deny.

14 186. Admit Dr. Lutz wrote a written response to the November 5, 2020
15 meeting and denied allegations set forth therein.

16 187. Deny.

17 188. Deny.

18 189. Admit Dr. Lutz wrote a written response to the allegations addressed
19 at the November 5, 2020

20 190. Deny.

21 191. Deny.



192. Admit that Dr. Lutz wrote a written response to the allegations addressed at the November 5, 2020 meeting.

193. Deny.

194. Deny.

195. Admit Dr. Lutz wrote a written response to the allegations addressed at the November 5, 2020

196. Deny.

197. Deny.

198. Admit Dr. Lutz wrote a written response to the allegations addressed at the November 5, 2020.

199. Deny.

200. Deny.

201. Admit Dr. Lutz wrote a written response to the allegations addressed at the November 5, 2020.

202. Deny.

203. Deny.

204. Admit Dr. Lutz wrote a written response to the allegations addressed at the November 5, 2020.

205. Deny

206. Deny.

207. Deny.

208. Deny.

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1 209. Deny.

2 210. Deny.

3
4 **VI. CAUSES OF ACTION**
FIRST CAUSE OF ACTION

5 **Wrongful Termination in Violation of SRHD's Bylaws, RCW 70.05, and**
6 **Washington's Administrative Procedures Act**

7 211. Admit or deny as set for above.

8 212. No answer is required as the statute speaks for itself.

9 213. No answer is required as the by-laws speak for themselves and calls
10 for a legal conclusion

11 214. Admit Plaintiff was hired on about May 17, 2017. Without sufficient
12 information to admit or deny and therefore deny the remainder.

13 215. Deny.

14 216. Deny.

15 217. Deny.

16 218. The correspondence speaks for itself and no answer is required.

17 219. Admit.

18 220. Calls for a legal conclusion and no answer is required. However,
19 Deny.

20 221. Deny.

21 222. Deny.



SECOND CAUSE OF ACTION

Wrongful Termination in Violation of RCW 70.05 and RCW 42.30.110

223. Admit or deny as set forth above.

224. Admit.

225. Admit. This information is privileged attorney client privilege and protected by the executive session privilege.

226. Calls for a legal conclusion and no answer is required.
Notwithstanding, Deny.

227. Deny.

THIRD CAUSE OF ACTION

Wrongful Termination –Lack of Notice of the Reason for Removal

228. Admit or deny as set forth herein.

229. Admit that these statutes provide some of the duties of Plaintiff. Defendants affirmatively assert that they are not the only sources of “job duties and responsibilities” that Plaintiff was required to follow.

230. No answer is required as the statute speaks for itself

231. Deny.

232. Calls for a legal conclusion and no answer is required.
Notwithstanding, Deny.

233. Deny.

234. Deny.

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FOURTH CAUSE OF ACTION

Wrongful Termination in Violation of Procedural Due Process Rights of the Fifth and Fourteenth Amendments to the U.S. Constitution, 42 U.S.C. § 1983, and Wash. Const. Article 1, Section 3.

235. Admit or deny as set forth above.

236. Deny.

237. Deny.

FIFTH CAUSE OF ACTION

Wrongful Termination in Violation of Free Speech Rights of the 1st Amendment to the U.S. Constitution, 42 U.S.C. § 1983, and Wash. Const. Article 1, Section 4.

238. Admit or deny as set forth above.

239. Deny.

240. Deny.

SIXTH CAUSE OF ACTION

Defamation

241. Admit or deny as set forth above.

242. Deny.

243 Deny

244 D

$\angle + 0^\circ$ Deny.

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1 **VII. PRAAYER FOR RELIEF**

2 1. For answer to prayer for relief 1 of Plaintiff's Complaint, to the extent that
3 any factual allegations are set forth Defendants deny the same.
4
5 2. For answer to prayer for relief 2 of Plaintiff's Complaint, to the extent that
6 any factual allegations are set forth Defendants deny the same.
7
8 3. For answer to prayer for relief 3 of Plaintiff's Complaint, to the extent that
9 any factual allegations are set forth Defendants deny the same.
10
11 4. For answer to prayer for relief 4 of Plaintiff's Complaint, to the extent that
12 any factual allegations are set forth Defendants deny the same.
13
14 5. For answer to prayer for relief 5 of Plaintiff's Complaint, to the extent that
15 any factual allegations are set forth Defendants deny the same.
16
17 6. For answer to prayer for relief 6 of Plaintiff's Complaint, to the extent that
18 any factual allegations are set forth Defendants deny the same.
19
20 7. For answer to prayer for relief 7 of Plaintiff's Complaint, to the extent that
21 any factual allegations are set forth Defendants deny the same.

22 **AFFIRMATIVE DEFENSES**

23 WHEREFORE, having fully answered Plaintiffs Complaint, Defendant
24 asserts these affirmative defenses pursuant to CR 12. Discovery has not yet been
25 completed and a pending criminal investigation has not yet been completed. These
26 answers and affirmative defenses are set forth solely to avoid any motion for
27 default being filed. As a result, Defendant reserves its right to add, strike or modify
28 its affirmative defenses as discovery progresses and the criminal investigation is
29

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1 completed. Defendant specifically waives no defenses that may be available as
2 discovery and the investigation may warrant.
3

- 4 1. Plaintiff's Complaint fails, in whole or in part, to state claims or causes
5 of action upon which relief may be granted.
- 6 2. Discovery may reveal Plaintiff's damages and/or injuries, if any were
7 caused by Plaintiffs over whom Defendant had no responsibility or
8 control.
- 9 3. Discovery may reveal Plaintiff's damages and/or injuries, if any were
10 caused by intervening or supervening causes which were not foreseeable
11 and over which Defendant had no responsibility or control.
- 12 4. Defendant reserves the right to amend these affirmative defenses as
13 dictated by discovery.

14 WHEREFORE, having fully answered Plaintiffs' Complaint, Defendant
15 prays for relief as follows:
16

- 17 1. An order dismissing, with prejudice, Plaintiffs' Complaint;
- 18 2. An order awarding Defendant costs and reasonable attorney fees; and
- 19 3. An order for such other and further relief as law and equity may allow
20 following further discovery.

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1 DATED: February 26, 2024.
2
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EVANS, CRAVEN & LACKIE, P.S.

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1 CERTIFICATE OF SERVICE
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I hereby certify that on February 26, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following listed attorneys:

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